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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/801,515	03/07/2001	Kenneth L. Levy	LevyXR	5301

23735 7590 06/02/2005

DIGIMARC CORPORATION  
9405 SW GEMINI DRIVE  
BEAVERTON, OR 97008

EXAMINER
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SONG, HOSUK

ART UNIT	PAPER NUMBER
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2135

DATE MAILED: 06/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/801,515

Applicant(s)

LEVY, KENNETH L.

Examiner

Hosuk Song

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 21 September 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 18-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 18-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 3/21/2005.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. Claims 18,20-21,23-25 remain rejected under 35 U.S.C. 102(e) as being anticipated by Linnartz(US 6,314,518).

Claim 18: Linnartz disclose (a)examining the auxiliary data for copy control data in (col.3,lines 62-67). Linnartz disclose (b) examining the picture data for a digital watermark in (col.6,lines 6-15). Linnartz disclose making a copy control based on results (a) and (b) and an improvement wherein the digital watermark has only two states:present or absent in (col.5,lines 8-10).

Claim 20: Linnartz disclose auxiliary data comprises header data in (col.4,lines 54-65)

Claim 21: Linnartz disclose auxiliary data comprises plural bits of copy control data in (col.3,lines 62-67 and col.4,lines 54-65)

Claims 23,25: Linnartz disclose encoding a digital watermark in the picture data in (col.4,lines 3-4). Linnartz disclose including copy control data in the auxiliary data in (col.4,lines 3-10). Linnartz disclose compliant decoder device can make a copy control decision based on examination of copy control data in conjunction with examination of digital watermark in (col.3,lines 58-67). Linnartz disclose improvement wherein the digital watermark has only two states:present or absent in (col.5,lines 8-10).

Claim 24: Linnartz disclose auxiliary data comprises header data in (col.4,lines 54-65)

2. Claim 22 remain rejected under 35 U.S.C. 102(e) as being anticipated by Ezaki(US 6,721,437).

Claim 22: Ezaki discloses examining the auxiliary data for copy control data in (col.10,lines 26-31). Ezaki disclose only if the copy control data is missing ,examining the picture data for a digital watermark and if the copy control data is missing, and the digital watermark is present, then limiting processing of video content in (col.10,lines 40-49).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 19 remain rejected under 35 U.S.C. 103(a) as being unpatentable over Linnartz(US 6,314,518) in view of Ezaki et al.(US 6,721,437)

Claim 19: Linnartz does not specifically disclose prohibiting copying of the video content if the copy control data is absent and the digital watermark is present. Ezaki disclose prohibiting copying of the video content if the copy control data is absent and the digital watermark is present in (col.10,lines 40-49). It would have been obvious to person of ordinary skill in the art to prohibit copying of the video content if the copy control data is absent and the digital watermark is present as taught in Ezaki with watermarking method disclosed in Linnartz in order to conserve data processing time and minimize data errors such that if the user wish to strictly prohibit data from copying, user would simply insert watermark into the data without control data. This allows speedy transmission and less prone to data errors.

***Response to Applicant's arguments***

5. Applicant has argued that Linnartz does not teach two states where one of these is the absence of a watermark. In response: Examiner disagrees. Linnartz specifically disclose where one of the state is absence of a watermark in (col.5,line 10) and other state where presence of watermark in (col.5,lines 5-9). Applicant has argued that Linnartz discloses three states and does not meet the claims requirement of a two-state system, where one of the states is the absence of a watermark. In response: Examiner disagrees. Linnartz disclose state a/b , c with watermarked state and state d with absence of watermark. Examiner asserts that since state a/b, c are both watermarked state, it does disclose two states in terms of watermarked and non-watermarked in which current claim is directed to. Examiner agrees with the applicant that Linnartz disclose three states. However, Linnartz disclose three states in terms of copy control permission(see col.6,lines 10-15). Applicant has argued that Ezaki does not teach an arrangement in which only if the copy control data is missing , is the picture data examined for a digital watermark. In response: Examiner disagrees. Ezaki disclose that copy control detection circuit #134 checks for any alteration, missing,stolen or security breach of copy control data in (col.4,lines 6-17). Ezaki further teaches that data is examined for watermark after security check in (col.4,lines 22-31).

***Conclusion***

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

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will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

***USPTO Contact information***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hosuk Song whose telephone number is 571-272-3857. The examiner can normally be reached on Tue-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kim Vu can be reached on 571-272-3859. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Hosuk Song  
Primary Examiner  
Art Unit 2135